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VIA ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

**Re: Wireless Infrastructure, WT Docket No. 17-79
Wireline Infrastructure, WC Docket No. 17-84
Small Cell Infrastructure, WT Docket No. 16-421**

Dear Ms. Dortch:

The cable industry supports the Commission's continued efforts to promote the deployment of broadband infrastructure so that consumers will be able to enjoy the benefits of next-generation broadband service as quickly as possible. In particular, NCTA – The Internet & Television Association (NCTA) has advocated that the Commission remove barriers to infrastructure deployment for all technologies - wireless and wireline alike - as all providers are facing unnecessary and time-consuming obstacles to deployment.¹

Broadband providers have engaged in similar efforts throughout the states to eliminate regulatory obstacles to deployment. In an effort to assist the Commission as it moves forward, CTIA and the Wireless infrastructure Association ("WIA") recently submitted an ex parte letter and chart in the above-captioned dockets summarizing legislation adopted in 20 states.² The goal of this letter, CTIA and WIA explained, was "to inform the Commission's assessment of cost-based, non-discriminatory, and reasonable rates and fees.... for wireless facility deployment."³ As CTIA and WIA note, however, the summary chart does not "examine every element considered within the state legislation."

NCTA agrees that the legislative experience in these states provides helpful examples of how to promote deployment of all types of networks and balance the interests of broadband

¹ See Comments of NCTA – The Internet & Television Association, WC Docket No. 17-84 at 23 (June 15, 2017) ("In an environment where wireline and wireless technologies converge and become ever more interdependent, the Commission should strive to adopt policies that promote investment by all types of companies using all types of technologies.").

² Letter from Kara R. Graves, Director, Regulatory Affairs, CTIA, and D. Zachary Champ, Director, Government Affairs, Wireless Infrastructure Association, WT Docket No. 17-79; WC Docket No. 17-84; WT Docket No. 16-421 (filed Aug. 10, 2018).

³ *Id.*

providers and local governments. To ensure that the Commission has a complete record, NCTA submits the attached supplement to the CTIA/WIA chart, which includes information on the following types of provisions commonly included in these bills:

- provisions excluding wireline backhaul from the definition of wireless facilities;
- provisions exempting strand-mounted “microcells” or “micro wireless facilities” from installation and zoning requirements; and
- provisions prohibiting state and local authorities from enforcing additional requirements on the placement or operation of communications facilities in the right-of-way or charging any additional fees on the construction or operation of such facilities, if the provider already has an authorization, such as a cable franchise, to operate in the right-of-way.

The balancing of interests that took place in these states has produced an improved regulatory landscape for wireless and wireline providers, with all the resulting benefits that will flow to consumers from additional deployment by all types of providers. NCTA encourages the Commission to follow a similar approach as it proceeds in the above-captioned dockets.

Sincerely,

/s/ Steven F. Morris

Steven F. Morris

Attachment

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
Arizona (2017)	<p><i>Definition of wireless facility expressly excludes wireline backhaul:</i></p> <p>"Wireless facility"</p> <p>***</p> <p>(c) Does not include the structure or improvements on, under or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna.</p>	<p><i>On-strand Wi-Fi deployment handled in existing AZ law.</i></p>	
Colorado (2017)	<p><i>Definition of "wireless facility" expressly excludes wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"Wireless service facility" means a facility for the provision of wireless services; except that "wireless service facility" does not include coaxial or fiber-optic cable that is not immediately adjacent to, or directly associated with, a particular antenna.</p>	<p><i>Protects on-strand microwireless from any fees or permits:</i></p> <p>Except as provided in subsections (3)(b) and (3)(c) of this section, a local government entity shall not impose any fee or require any application or permit for the installation, placement, operation, maintenance, or replacement of micro wireless facilities that are suspended on cable operator-owned cables or lines that are strung between existing utility poles in compliance with national safety codes.</p>	
Delaware (2017)	<p><i>Definition of "wireless facility" expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p>	<p><i>Protects on-strand microwireless from any fees or permits:</i></p>	

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
	<p>"Wireless facility" *** does not include (1) the structure or improvements on, under, or within which the equipment is collocated, (2) wireline backhaul facilities, or (3) coaxial or fiber optic cable that is between utility poles or wireless support structures or that is otherwise not immediately adjacent to or directly associated with a particular antenna.</p>	<p>Unless otherwise required by applicable code, the Department shall not require an application approval or permit or require fees or rates for</p> <p>***</p> <p>(iii) the installation, placement, operation, maintenance, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable codes.</p>	
<p>Florida (2017)</p>	<p><i>Definition of "wireless facility" expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"Wireless facility"</p> <p>***</p> <p>does not include:</p> <p>a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;</p> <p>b. Wireline backhaul facilities; or</p> <p>c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>An authority may not require approval or require fees or other charges for:</p> <p>***</p> <p>3. Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.</p>	<p>Except as provided in this section or specifically required by state law, an authority may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way by a provider authorized by state law to operate in the rights-of-way and may not regulate any communications services or impose or collect any tax, fee, or charge not specifically authorized under state law. This paragraph is not intended to change state law regarding an authority's ability to regulate the relocation of facilities.</p>

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
Hawaii (2018)	<p><i>Definition of “wireless facility” expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"Wireless facility" includes small wireless facilities but shall not include:</p> <p>(1) Wireline backhaul facilities; and</p> <p>(2) Coaxial or fiber-optic cable between utility poles or communications facilities that are otherwise not immediately adjacent to and directly associated with a particular antenna.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>The State or county shall not require an application or permit, or charge any rate, fees, or compensation for:</p> <p>***</p> <p>(C) Installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between utility poles, in compliance with the national electrical safety code.</p>	<p>Except as provided in this chapter with respect to the wireless facilities subject to the permitting, rate, and fee requirements established herein, the State and each county shall not adopt or enforce any regulations or requirements or charge additional rates or fees on an entity’s placement or operation of communications facilities in the right of way where the entity is already authorized by a cable television franchise to operate throughout the right of way. The State and each county shall not regulate or charge fees for the provision of additional communications services over a cable system authorized under such franchise, unless expressly authorized by applicable law.</p>
Illinois (2018)	<p><i>Definition of “wireless facility” expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"Wireless facility" does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>An authority shall not require an application, approval, or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:</p> <p>***</p> <p>(iii) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes. However, an authority may require a permit to</p>	

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		work within rights-of-way for activities that affect traffic patterns or require lane closures.	
Indiana (2017)		<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>(b) A permit authority may not require an application or a permit for, or charge fees for, any of the following:</p> <p>***</p> <p>(3) The installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by a communications service provider that is authorized to use the public rights-of-way. For purposes of this subdivision, "applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes that are: (A) adopted by a recognized national code organization; and (B) enacted solely to address imminent threats of destruction of property or injury to persons; including any local amendments to those codes.</p>	
Iowa (2017)	<p><i>Definition of "wireless facility" expressly excludes wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"[W]ireless facility" does not include coaxial or fiber optic cable that is not immediately</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>[With certain exceptions], an authority shall not impose any fee or require any application or permit for the installation, placement, operation, maintenance, or replacement of a</p>	

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
	adjacent to, or directly associated with, a particular antenna.	micro wireless facility that is suspended on operator-owned cables or lines that are strung between existing utility poles in compliance with national safety codes.	
Kansas (2016)	<i>Definition of “wireless facility” expressly excludes wired connections from base stations to hubs or switching locations:</i> “Wireless facility” does not mean any wired connections from a wireless support structure or base station to a hub or switching location.		
Minnesota (2017)	<i>Definition of “wireless facility” expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i> "Wireless facility" does not include: (1) wireless support structures; (2) wireline backhaul facilities; or (3) coaxial or fiber-optic cables (i) between utility poles or wireless support structures, (ii) that are not otherwise immediately adjacent to or directly associated with a specific antenna.	<i>Protects on-strand microwireless facilities from fees and permits:</i> A local government unit is prohibited from requiring a person to pay a small wireless facility permit fee, obtain a small wireless facility permit, or enter into a small wireless facility collocation agreement solely in order to conduct any of the following activities: *** (3) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes.	Except as provided in this chapter or required by federal law, a local government unit shall not adopt or enforce any regulation on the placement or operation of communications facilities in the right-of-way where the entity is already authorized to operate in the right-of-way, and shall not regulate or impose or collect fees on communications services except to the extent specifically provided for in the existing authorization, and unless expressly required by state or federal statute.
Missouri (2018)	<i>Definition of “wireless facility” expressly excludes wireline backhaul facilities and</i>	<i>Protects on-strand microwireless facilities from fees and permits:</i>	Except as provided in sections 67.5110 to 67.5121, no authority may adopt or enforce any ordinances or requirements that require

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
	<p><i>wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"Wireless facility", *** does not include:</p> <p>***</p> <p>(a) The structure or improvements on, under, or within which the equipment is collocated;</p> <p>(b) Coaxial or fiber-optic cable between wireless support structures or utility poles;</p> <p>(c) Coaxial or fiber-optic cable not directly associated with a particular small wireless facility; or</p> <p>(d) A wireline backhaul facility.</p>	<p>An authority shall not require an application for:</p> <p>***</p> <p>(3) The installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between utility poles, in compliance with applicable codes.</p> <p>A municipal electric utility shall not require an application for the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between utility poles, in compliance with applicable codes.</p>	<p>the holder of a franchise or video service authorization as defined under section 67.2677 and that could be required to pay a video service provider fee to a franchise entity under section 67.2689, to obtain additional authorization or to pay additional fees for the provision of communications service over such holder's communications facilities in the right-of-way.</p>
New Mexico (2018)	<p><i>Definition of "wireless facility" expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"[W]ireless facility" *** does not include</p> <p>***</p> <p>(b) a wireline backhaul facility, coaxial cable or fiber-optic cable between wireless support structures or utility poles; or</p> <p>(c) coaxial or fiber-optic cable otherwise not immediately adjacent to, or directly associated with, an antenna.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>An authority shall not *** except as otherwise provided in Subsection K of this section, require an application, approval or permit or impose a fee, rate or other charge for:</p> <p>***</p> <p>(c) the installation, maintenance, operation, placement or replacement of a micro wireless facility that is, in accordance with applicable codes, suspended on cables strung between utility poles or wireless structures. As used in this subparagraph, "micro wireless facility"</p>	

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		means a small wireless facility less than twenty-four inches long, fifteen inches wide and twelve inches high whose exterior antenna, if any, is less than eleven inches long.	
North Carolina (2017)	<p><i>Definition of “wireless facility” expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>Wireless facility *** shall not include any of the following:</p> <p>***</p> <p>a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.</p> <p>b. Wireline backhaul facilities.</p> <p>c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>A city shall not require an application or permit or charge fees for</p> <p>***</p> <p>(iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).</p>	<p>Except as provided in this Part or otherwise specifically authorized by the General Statutes, a city may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.</p> <p>Except as provided in this Part or specifically authorized by the General Statutes, a city may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.</p>
Ohio (2018)	The permitting procedures and authorizations . . . do not authorize the construction and operation of a wireline backhaul facility.	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>[A] cable or video service provider shall not be required to obtain permits from a municipal corporation or to pay fees, with the exception of work permits and associated fees, to place, operate, maintain, or replace micro wireless</p>	...nor shall a holder of an existing franchise or video service authorization be required to obtain additional authorizations or to pay additional fees for the placement of micro wireless facilities already covered under an existing franchise or video service authorization under Chapter 1332. of the Revised Code.

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
		facilities pursuant to an existing franchise or video service authorization.	
Oklahoma (2018)	<p><i>Definition of “wireless facility” expressly excludes wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>“Wireless facility” *** does not include:</p> <p>***</p> <p>b. coaxial or fiber-optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>An authority shall not require an application for the following:</p> <p>***</p> <p>3. For the installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cable between existing utility poles, in compliance with the National Electrical Safety Code.</p> <p>***</p> <p>There shall be no rate charged for the installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code.</p>	
Rhode Island (2017)	<p><i>Definition of “wireless facilities” expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>The term “wireless facilities” . . . does not include . . . wireline backhaul facilities; coaxial</p>		

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
	or fiber-optic cable that is between wireless support structures or poles; or coaxial or fiber optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna.		
Tennessee (2018)	<p><i>Definition of “wireless facility” expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"Wireless facility" does not include: (i) The structure or improvements on, under, or within which the equipment is colocated; (ii) Wireline backhaul facilities; or (iii) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>No local authority shall require approval, or any applications, fees, or rates, for:</p> <p>***</p> <p>(C) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables that are strung between existing PSSs, in compliance with the National Electrical Safety Code as set out in § 68-101-104.</p>	<p>Except as provided in this part or otherwise specifically authorized by state law, adopt or enforce any regulations or requirements on the placement or operation of communications facilities in a ROW by a communications service provider authorized by state or local law to operate in a ROW; regulate any communications services; or impose or collect any tax, fee, or charge for the provision of communications service over the communications service provider's communications facilities in a ROW.</p>
Texas (2017)	<p><i>Definition of “network node” includes coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation:</i></p> <p>“Network node” means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term: (A) includes: (i) equipment associated with wireless communications; (ii) a radio transceiver, an antenna, a battery-only backup</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>Notwithstanding any other provision of this chapter, a municipality may not require a network provider to submit an application, obtain a permit, or pay a rate for:</p> <p>***</p> <p>(3) the installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles, in</p>	<p>Except as provided by this chapter, a municipality may not adopt or enforce any regulations or requirements that would require a wireless service provider, or its affiliate, that holds a cable or video franchise under Chapter 66, Utilities Code, to obtain any additional authorization or to pay any fees based on the provider’s provision of wireless service over its network nodes.</p>

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
	power supply, and comparable equipment, regardless of technological configuration; and (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation.	compliance with the National Electrical Safety Code.	
Utah (2018)	<p><i>Definition of “wireless facility” expressly excludes wireline backhaul facilities and wireline infrastructure not immediately adjacent to or associated with an antenna:</i></p> <p>"Wireless facility" does not include:</p> <p>***</p> <p>(ii) a coaxial or fiber-optic cable that is: (A) between wireless structures or utility poles; (B) not immediately adjacent to or directly associated with a particular antenna; or (C) a wireline backhaul facility.</p>	<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>Except as provided in Subsection (2), an authority may not require a wireless provider to submit an application, obtain a permit, or pay a rate for:</p> <p>***</p> <p>(c) the installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles, in compliance with the National Electrical Safety Code.</p>	Except as provided in this chapter or otherwise specifically authorized by state law, an authority may not impose or collect a tax, fee, or charge on a communications service provider authorized to operate in a right-of-way for the provision of communications service over the communications service provider's communications facilities in the right-of-way.
Virginia (2017, 2018)		<p><i>Protects on-strand microwireless facilities from fees and permits:</i></p> <p>Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes</p>	

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State	Backhaul Limitation	Microwireless	Prohibition on Additional Authorizations
		<p>shall be exempt from locality-imposed permitting requirements and fees.</p> <p>***</p> <p>The Department shall not impose any fee or require a permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes [except in defined circumstances].</p> <p>***</p> <p>Localities shall not impose any fee or require any application or permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes [except in defined circumstances].</p>	